

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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JOYCE SILVERSTEIN,

Plaintiff,

-against-

ISLIP UNION FREE SCHOOL DISTRICT, BOARD
OF EDUCATION OF THE ISLIP UNION FREE
SCHOOL DISTRICT, JOHN AND JANE DOE 1-30,
Teachers, supervisors, employees, in their official
and individual capacities, whose identities are presently
unknown to Plaintiff,

Defendants.

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To the above named Defendant(s)

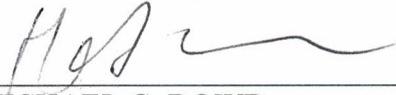
YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
September 23, 2019

Index No.
Date Filed:

Plaintiff designates
SUFFOLK
County as the place of trial.

The basis of the venue is
Defendants' place of
business.

SUMMONS

MICHAEL G. DOWD
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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OF EDUCATION OF THE ISLIP UNION FREE
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Teachers, supervisors, employees, in their official
and individual capacities, whose identities are presently
unknown to Plaintiff,

VERIFIED COMPLAINT

Defendants.

-----X

Plaintiff, JOYCE SILVERSTEIN, by her attorney, MICHAEL G. DOWD, complaining
of Defendants, hereby alleges the following:

JURISDICTION

1. This action is timely commenced pursuant to the New York State Child Victims Act, dated February 14, 2019, and CPLR § 214-g.
2. This Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal place of business is in New York and because much of the unlawful conduct complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because Suffolk County is the principal place of business of Defendants.

AS AND FOR A FIRST CAUSE OF ACTION**NEGLIGENT SUPERVISION**

4. The Plaintiff, JOYCE SILVERSTEIN, maiden name, JOYCE BOEZ (hereinafter "PLAINTIFF") was born on November 13, 1958. She is a resident of Briarcliff,

Westchester County, New York.

5. PLAINTIFF attended ISLIP HIGH SCHOOL from 1972, when she entered the ninth grade, through 1976, when she graduated from twelfth grade.
6. Defendant ISLIP UNION FREE SCHOOL DISTRICT (hereinafter "DISTRICT") is at all material times a public school district existing under the laws of the State of New York.
7. ISLIP HIGH SCHOOL is at all material times a public school existing in Suffolk County, New York. ISLIP HIGH SCHOOL is a public school for grades nine through twelve located at 2508 Union Boulevard, Islip, New York 11751 and a part of DISTRICT.
8. Defendant BOARD OF EDUCATION OF THE ISLIP UNION FREE SCHOOL DISTRICT is at all material times a municipal corporation duly organized and existing under, and by virtue of the State of New York. BOARD OF EDUCATION OF THE ISLIP UNION FREE SCHOOL DISTRICT (hereinafter "BOARD OF EDUCATION") is located at 215 Main Street, Islip, NY 11751 and is a part of DISTRICT.
9. Defendants JOHN AND JANE DOE 1-30, whose names are presently unknown, were members of BOARD OF EDUCATION during all material times herein. JOHN AND JANE DOE 1-30 are the persons and/or entities who run, manage, operate, supervise, oversee, fund, are joint venturers, parent organizations, are the subsidiaries, are contractually related and/or are principals and/or agents of the business, entities, and/or principals, who owed a duty of care to PLAINTIFF and breached that duty of care. JOHN AND JANE DOE 1-30 are the persons and/or

entities who were responsible for the oversight and administration of ISLIP HIGH SCHOOL, including but not limited to hiring ISLIP HIGH SCHOOL's teachers and department heads.

10. Defendants DISTRICT, BOARD OF EDUCATION, and JOHN AND JANE DOE 1-30 will be referred to collectively as "DEFENDANTS".
11. Upon information and belief, ROBERT GEORGE STEPHAN (hereinafter "STEPHAN") was hired by DEFENDANTS as a French Teacher and Department Head at ISLIP HIGH SCHOOL.
12. Upon further information and belief, the DEFENDANTS also assigned STEPHAN to be the Coach of the Fencing Team and a Driver's Education Teacher at ISLIP HIGH SCHOOL.
13. Upon information and belief, STEPHAN is deceased.
14. Upon information and belief, when STEPHAN met PLAINTIFF in 1972, he was an employee and agent of DEFENDANTS, acting within the course and scope of his authority as an ISLIP HIGH SCHOOL French Teacher, Language Department Head, Coach and Driver's Education Teacher. STEPHAN continued acting as an employee and agent of DEFENDANTS through the entire period when STEPHAN sexually abused PLAINTIFF.
15. PLAINTIFF first met STEPHAN in 1972 at the start of her freshman year. STEPHAN was her ninth grade French teacher.
16. Upon information and belief, STEPHAN's office and classroom were on the campus of ISLIP HIGH SCHOOL.

17. Commencing in 1972, STEPHAN began a process of grooming PLAINTIFF with the goal of sexually abusing her.
18. The grooming included but was not limited to STEPHAN talking with PLAINTIFF during study hall, having PLAINTIFF visit him privately in his office alone, complimenting PLAINTIFF's appearance, making PLAINTIFF manager of the fencing team whilst he was the coach, and including PLAINTIFF in discussions with other teachers.
19. This grooming behavior all occurred on ISLIP HIGH SCHOOL property.
20. The above-mentioned grooming behavior was done in the presence of, or within the observation of, ISLIP HIGH SCHOOL teachers and administrators.
21. At all material times, PLAINTIFF was aware of no ISLIP HIGH SCHOOL rules or regulations or policies concerning or addressing sexual abuse, sexual harassment, and sexual misconduct of ISLIP HIGH SCHOOL students, such as PLAINTIFF, by teachers such as STEPHAN.
22. During all material times, PLAINTIFF received no training or information in any form, including but not limited to, classroom instruction or oral presentation, through video or written document on how to deal with sexual misconduct, sexual abuse, sexual boundary violations or sexually harassing behavior by ISLIP HIGH SCHOOL teachers or staff on students like herself.
23. Between 1973 and 1975 STEPHAN sexually abused PLAINTIFF.
24. In around June of 1973, STEPHAN kissed PLAINTIFF while they were alone in his office, which was located on the second floor of ISLIP HIGH SCHOOL across from the main staircase in the front of the building. In the beginning of the

next school year, (the 1973-1974 school year), STEPHAN began a pattern of getting PLAINTIFF to be alone with him in his office. There he would kiss her and touch her naked breasts under her shirt. The abuse progressed and STEPHAN began to cajole and otherwise use his position of influence and authority to have PLAINTIFF take off her clothes and touch his genitals. At various times, STEPHAN would stand behind PLAINTIFF, clothed, and press his erect penis into her back.

25. STEPHAN subjected PLAINTIFF to approximately 50 occasions of penetrating her vagina with his fingers, approximately 40 occasions of performing oral sex on PLAINTIFF, and approximately 40 occasions of PLAINTIFF masturbating him until he ejaculated.
26. The above-described sexual abuse took place in the following locations at ISLIP HIGH SCHOOL: STEPHAN's department head office adjacent to his classroom, in the Driver's Education vehicle owned by DEFENDANTS and used for Driver's Education by ISLIP HIGH SCHOOL and in the basement of ISLIP HIGH SCHOOL where ISLIP HIGH SCHOOL's fencing team's practices took place.
27. The above-described incidents took place during normal school hours and when ISLIP HIGH SCHOOL was otherwise open for use by administrators, teachers and students including after school.
28. Upon information and belief at all times when the above-described acts of sexual abuse took place, DEFENDANTS' teachers, administrators and employees were present at the ISLIP HIGH SCHOOL.

29. Upon information and belief, during all material times herein, when PLAINTIFF was enrolled in school and communicating and otherwise interacting with STEPHAN, she was entrusted by her parent to the care of DEFENDANTS and during such periods the DEFENDANTS were acting in the capacity of *in loco parentis* because DEFENDANTS assumed custody and control over her as a minor child and as a student at the school.
30. Upon information and belief, STEPHAN used his position of trust and authority vested in him by the DEFENDANTS for the purpose of sexually abusing PLAINTIFF.
31. Upon information and belief, the sexual abuse of PLAINTIFF by STEPHAN was foreseeable.
32. Upon information and belief, at all material times, DEFENDANTS had the duty to exercise the same degree of care and supervision over the students, including PLAINTIFF, under their control as a reasonably prudent parent would have exercised under the same circumstances. DEFENDANTS assumed a duty of care to protect the safety and welfare of PLAINTIFF as a student at ISLIP HIGH SCHOOL.
33. At all material times, DEFENDANTS owed a duty to PLAINTIFF to provide a safe and nurturing educational environment, where she would be protected from teachers like STEPHAN who were under the employment and control of the DEFENDANTS.
34. Upon information and belief, during STEPHAN's employment by ISLIP HIGH SCHOOL and while PLAINTIFF was a student in ISLIP HIGH SCHOOL's care,

DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would exercise under similar circumstances.

35. During all material times, DEFENDANTS owed a special duty to PLAINTIFF that required DEFENDANTS to take reasonable steps to anticipate such behavior from its employees like STEPHAN, which threatened the safety of students including PLAINTIFF.
36. At all material times, DEFENDANTS had a duty to properly supervise STEPHAN as their employee and because of their duty of care to PLAINTIFF.
37. At all material times, PLAINTIFF reposed her trust and confidence as a student and minor child in DEFENDANTS, who occupied a superior position of influence and authority over PLAINTIFF to provide PLAINTIFF with a safe and secure educational environment.
38. Upon information and belief, at all material times, DEFENDANTS knew or should have known of the risk that STEPHAN would sexually abuse minor students.
39. Upon information and belief, the DEFENDANTS negligently failed to adequately implement a reasonable or effective supervisory system, plan, protocol or procedure for supervising personnel so as to prevent inappropriate, offensive, sexual and/or abuse or contact of students by DEFENDANTS' employees.
40. Upon information and belief, the failure to supervise, includes but is not limited to, failure to supervise STEPHAN's classroom during instructional time and non-instructional time when he associated with students and the failure to adequately supervise students during non-instructional time on the ISLIP HIGH SCHOOL's

campus.

41. Upon information and belief, the injury to PLAINTIFF resulted from DEFENDANTS' failure to provide PLAINTIFF the supervision of a parent of ordinary prudence under the same circumstances.
42. Upon information and belief, the injuries to PLAINTIFF were a foreseeable consequence of DEFENDANTS' negligent failure to supervise STEPHAN and PLAINTIFF. Said injuries were caused by or contributed to by the carelessness, recklessness and the grossly negligent conduct of the DEFENDANTS, their agents, servants and/or employees, in failing to properly and adequately supervise the conduct of STEPHAN as it related to the PLAINTIFF.
43. DEFENDANTS were wanton, reckless, officially tolerant and deliberately indifferent to abuse of PLAINTIFF by STEPHAN.
44. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
45. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.

46. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7).
47. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

NEGLIGENT RETENTION

48. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
49. Upon information and belief, as more fully alleged above, DEFENDANTS' duty of care to the PLAINTIFF included a duty not to retain an employee like STEPHAN who would use his position of authority and influence to harm students such as PLAINTIFF.
50. Upon information and belief, DEFENDANTS knew or should have known that STEPHAN was grooming PLAINTIFF for the purpose of sexually abusing her and failed to take any steps to stop the abuse or prevent harm to PLAINTIFF.
51. Upon information and belief, DEFENDANTS knew or should have known that STEPHAN was sexually abusing PLAINTIFF and/or knew or should have known of his propensity to sexually abuse minor students with whom he came in contact.
52. When PLAINTIFF was in their care, said DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.

53. DEFENDANTS were wanton, reckless, officially tolerant and deliberately indifferent to abuse of PLAINTIFF by STEPHAN.
54. DEFENDANTS are liable to PLAINTIFF as a result of their recklessness, official tolerance and deliberate indifference to the harm caused to PLAINTIFF by STEPHAN.
55. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
56. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.
57. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7).
58. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION**NEGLIGENT FAILURE TO TRAIN TEACHERS AND ADMINISTRATORS RELATED
TO SEXUAL ABUSE AND TRAIN STUDENTS RELATING TO SEXUAL ABUSE**

59. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
60. Upon information and belief, DEFENDANTS, their agents, servants and employees owed a duty of care to PLAINTIFF as more fully alleged above. That duty included the duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent and address inappropriate teacher behavior and conduct including teacher -student boundary violations, sexually inappropriate teacher behavior and conduct and the sexual abuse of students by teachers for the purpose of preventing the sexual abuse of students like PLAINTIFF.
61. Upon information and belief, DEFENDANTS did not establish effective training and education programs, policies and procedures for their administrators, teachers and employees calculated to detect, prevent and address the problem of the inappropriate teacher behavior and conduct including teacher -student boundary violations, sexually inappropriate teacher behavior and conduct and the sexual abuse of students by employees.
62. Upon information and belief, in failing to establish such training and education programs, policies and procedures for employees and administrators, DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.

63. Upon information and belief, DEFENDANTS had a duty to train and educate students including PLAINTIFF on inappropriate teacher behavior and conduct including teacher-student boundary violations, sexually inappropriate teacher behavior and conduct and the sexual abuse of students by teacher and to establish effective policies and procedures to address said problems.
64. Upon information and belief, DEFENDANTS did not train and educate PLAINTIFF on the problem of inappropriate teacher behavior and conduct including teacher-student boundary violations, sexually inappropriate teacher behavior and conduct and the sexual abuse of students by teacher and did not establish effective policies and procedures to address said problems.
65. Upon information and belief, in failing to establish such training and education programs, policies and procedures for students like PLAINTIFF, DEFENDANTS failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
66. Upon information and belief, DEFENDANTS are liable to PLAINTIFF, as the result of their negligent failure to establish effective training and education programs, policies and procedures for their administrators, teachers and employees calculated to detect and prevent inappropriate teacher behavior and conduct and the including teacher-student boundary violations, sexually inappropriate teacher behavior and conduct and the sexual abuse of students by teacher. DEFENDANTS are also liable to PLAINTIFF for their failure to train and educate PLAINTIFF as a student on the problem of inappropriate teacher behavior and conduct including teacher-student boundary violations, sexually

inappropriate teacher behavior and conduct and the sexual abuse of students by teachers and to establish effective policies and procedures to address said problems.

67. DEFENDANTS were wanton, reckless, officially tolerate and deliberately indifferent by their failure to develop such effective training and education programs, policies and procedures for employees, administrators and students.
68. DEFENDANTS, their agents, servants and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to establish adequate and effective professional training and education programs and procedures for their employees calculated to prevent abuse of youth.
69. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
70. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.
71. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7)

and 1602(11).

72. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION

NEGLIGENT FAILURE TO PROVIDE A SAFE AND SECURE ENVIRONMENT

73. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
74. At all material times, as more fully set forth above, DEFENDANTS had the duty to exercise the same degree of care and supervision over the students under their control as a reasonably prudent parent would have exercised under similar circumstances.
75. During all material times, DEFENDANTS owed a special duty to PLAINTIFF as a student. This special duty required DEFENDANTS to take reasonable steps to anticipate such threats from its employees like STEPHAN which threatened the safety of PLAINTIFF.
76. Upon information and belief, by virtue of both their duty of care to PLAINTIFF and the positions of authority and influence they exercised over her, DEFENDANTS had a duty to PLAINTIFF to provide her a reasonably safe and secure environment at ISLIP HIGH SCHOOL.
77. Upon information and belief, DEFENDANTS failed to provide a reasonably safe environment to PLAINTIFF by failing to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.

78. As a result, DEFENDANTS are liable to PLAINTIFF for their negligent failure to provide a reasonably safe and secure environment.
79. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
80. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.
81. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
82. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FIFTH CAUSE OF ACTION

FAILURE TO REPORT CHILD ABUSE

83. PLAINTIFF repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.

84. Upon information and belief, DEFENDANTS had actual and/or implied knowledge of STEPHAN's sexually abusive actions and knowingly and willfully failed to report and to prevent further abuse of PLAINTIFF pursuant to Section 413 of the Social Services Law.
85. Upon information and belief, in not reporting suspicions of STEPHAN's sexually abusive behavior towards PLAINTIFF and other students, DEFENDANTS failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.
86. DEFENDANTS are jointly and severally liable to PLAINTIFF for damages as a result of this failure pursuant to Section 420 of the Social Services Law.
87. DEFENDANTS, their agents, servants and employees were careless, reckless and grossly negligent in failing to report suspected child abuse by STEPHAN.
88. By reason of the foregoing, PLAINTIFF sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and the PLAINTIFF has become and will continue to be obligated to expend sums of money for medical expenses.
89. That by reason of the foregoing, DEFENDANTS are liable to PLAINTIFF for punitive and exemplary damages.

90. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
91. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, the Plaintiff demands judgment against the Defendants, together with compensatory and punitive damages, and the interest, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York
September 23, 2019



MICHAEL G. DOWD
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

SWEENEY, REICH & BOLZ, LLP
By: Gerard J. Sweeney, Esq.
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Attorneys for Plaintiffs

VERIFICATION BY ATTORNEY

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for the Plaintiff in the above-entitled action with offices located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York
September 23, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640